

REMARKS

The Notice of Non-Compliant Amendment alleges that in the amendments to the claims section (submitted as part of Applicants' response filed on August 19, 2004), the "Claim 20" status identifier is improper."

Applicant's August 19, 2004 response was a *bona fide* attempt to reply to a non-final office action. Specifically, in Applicants' August 19, 2004 amendment, the Claim 20 identifier was listed as "(withdrawn, currently amended)".

Applicants direct the Examiner's attention to 37 C.F.R. § 1.121(c)(2), which states that:

"If a withdrawn claim is currently amended, its status in the claim listing may be identified as "*withdrawn--currently amended*." (MPEP 700-206) (emphasis added)

37 C.F.R. § 1.121(c)(2) clearly states that "*withdrawn--currently amended*" is a proper claim identifier. Applicants believe that the Claim 20 claim identifier in the amendment previously submitted is proper and meets the requirements of 37 C.F.R. § 1.121. However, in order to respond to the Notice of Non-Compliant Amendment, Applicants have changed the Claim 20 claim identifier to now read as "*withdrawn--currently amended*", exactly as stated in 37 C.F.R. § 1.121(c)(2).

According to the Notice, "Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h)." Therefore, Applicants only re-submit an amendments to the claims section, pages 2-9 of the instant response, instead of a complete amendment.

Applicants respectfully request that the re-submitted amendments to the claim section as well as the remaining sections of the August 19, 2004 response be entered into the file for the above-identified application, and that examination of the application promptly proceed.

Respectfully submitted,

Date: September 13, 2004


THERAVANCE, INC.

Attn: Legal Dept.

901 Gateway Boulevard

South San Francisco, CA 94080

Tel: (650) 808-6000; Fax: (650) 808-6078


Joyce Cohen, Reg. No. 44,622

Attorney Docket No. P-108-US2

Serial No.: 10/659,931

Response to Notice of Non-Compliant Amendment

Page 10 of 10

BEST AVAILABLE COPY

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.